

Government of the District of Columbia  
Office of the Chief Financial Officer



Jeffrey S. DeWitt  
Chief Financial Officer

**MEMORANDUM**

**TO:** The Honorable Phil Mendelson  
Chairman, Council of the District of Columbia

**FROM:** Jeffrey S. DeWitt  
Chief Financial Officer

**DATE:** November 25, 2014

**SUBJECT:** Fiscal Impact Statement – “Marijuana Legalization and Regulation Act of 2014”

**REFERENCE:** Bill 20-466, Draft Committee Print as provided to the Office of Revenue Analysis on November 24, 2014

---

**Conclusion**

Funds are not sufficient in the FY 2015 through FY 2018 budget and financial plan to implement the bill.

The implementation of the bill will require \$2.7 million in FY 2016 and \$6.2 million in the FY 2015 through FY 2018 budget and financial plan. The bill will generate licensing and tax revenues, but not until FY 2017, and several risk factors make reliable revenue estimates difficult.

**Background**

The bill legalizes the possession and consumption of marijuana and marijuana-infused products (“marijuana products”) for personal use by persons over the age of 21 in the District. It directs the Alcoholic Beverage and Regulatory Administration (ABRA) to enforce a regulatory system for the cultivation, processing, and retail sale of marijuana in the District.

The bill allows an individual to possess, grow, and transport one ounce or less of marijuana<sup>1</sup> product, five grams of hashish and up to 16 ounces of marijuana-infused products in solid form, and seventy-two ounces in liquid form. An individual may also process, grow, or transport up to six marijuana plants.<sup>2</sup> Consumption or growing of marijuana products cannot be conducted in public,

---

<sup>1</sup> DC Official Code § 48-901.02(3) defines cannabis as “all parts of the plant genus Cannabis, including both marijuana and hashish.” Marijuana includes “the leaves, stems, flowers and seeds” of Cannabis, but not extracted resin. Hashish is defined as “resin extracted from any part of the plant genus Cannabis.”

<sup>2</sup> Marijuana plants in the process of drying do not apply toward the number of living plants.

and import of marijuana products is prohibited into the District. An individual under 21 years old engaging in any of these activities may be subject to a drug education program if ordered by a court of law. If they fail to complete the four-hour program within a year, they will be required to perform eight hours of community service, and may be subject to a \$100 fine.

The legalization explicitly prohibits a defense to claims of negligence, malpractice, or operating a vehicle while under the influence of marijuana products. The bill requires education agencies to prohibit tobacco products and marijuana products on school property.

The bill sets a 10 percent tax on gross receipts of retail marijuana and related products, and an excise tax at 15 percent of the average market rate for transfer of unprocessed marijuana. The average market rate is to be determined every six months by the Office of the Chief Financial Officer. Sales and excise tax revenues would be deposited in a segregated non-reverting fund, and beginning FY 2017, will support various programs identified in the bill. These include, in the following order of priority:

- \$350,000 for the Office of Attorney General to pay for Youth Court of the District of Columbia to operate a pre-petition diversion program for first-time, non-violent juvenile offenders in the District of Columbia; and
- \$500,000 for the Department of Behavioral Health to pay for substance use and abuse programs.

The remainder would be deposited into the General Fund.

The bill also sets the license classes ABRA must issue and associated fees for the marijuana markets. These licenses, which are outlined in the table below, would be valid for three years.

<b>Marijuana production, sale, and testing licenses approved by Bill 20-466</b>	
<b>Type of License</b>	<b>License Fee (minimum) per year</b>
Retail marijuana cultivation facility license	\$5,000 for first time applicants, \$500 for those who hold medical marijuana cultivation licenses.
Retail marijuana products manufacturing	\$5,000
Retail marijuana store license	\$7,500
Retail marijuana testing facility	\$5,000

ABRA will also be required to issue occupational licenses and registrations for owners, managers, operators, employees, contractors, and other support staff employed by, working in, or having access to restricted areas of licensed premises, as well as a dual medical marijuana dispensary and retail store license when needed.

All retail marijuana license fees, fines, penalties, forfeitures, and all other monies, income, or revenue received by ABRA from retail marijuana regulation activities would be deposited and credited to a non-lapsing fund known as the ABRA retail marijuana administrative and enforcement operations fund. These collections will pay for the expenses of ABRA in the discharge of its administrative and regulatory duties.

## **Financial Plan Impact**

Funds are not sufficient in the FY 2015 through FY 2018 budget and financial plan to implement the bill. The implementation of the bill will require \$2.7 million in FY 2016 and \$6.2 million in the FY 2015 through FY 2018 budget and financial plan.

The bill will generate licensing and tax revenues that may eventually cover the cost of regulating marijuana markets and pay for the programs identified in the bill, but these amounts cannot be reliably estimated at this time. Office of Revenue Analysis estimates that the market volume for the sales of marijuana and marijuana infused products is approximately \$130 million per year,<sup>3</sup> but it is not clear if retail marijuana markets will be able to capitalize fully on the existing demand.

The amount of revenues, both tax and non-tax, will depend on the final regulations and the number of licensed entities. The timeline for the rulemaking process is outlined in the bill, but can be delayed if public objects, as it has happened for medical marijuana. If licenses are limited in a way that the supply will not meet the demand for marijuana, tax revenues will also be constrained. Given that ABRA will likely start its new operations in FY 2016, and will need about six months to write and approve the rules that would govern the market, revenues are not expected to materialize until FY 2017.

On the cost side, the bill will require additional staffing and non-personnel expenditures at ABRA, the Office of Treasury, and the Department of Health.

### ABRA

ABRA must develop rules for a license market, establish license qualifications, determine the number of licenses that should be issued, and outline civil penalties by mid-2015. Second, ABRA must develop a system that tracks marijuana plants from the point of cultivation to the point of sale and makes the tracking information available on the web. Third ABRA will be responsible for enforcement of all the retail marijuana rules and regulations. To meet these requirements, ABRA will need approximately 12 new staffers and \$1.1 million start-up expenditures.

### Office of the Chief Financial Officer

Given that production and sale of marijuana is a federal crime, sales tax revenue collections will be sent in atypical formats including cash and credit cards. The Office of Treasury will need additional cashier staff and incur additional lock-box costs to handle non-electronic transactions.

### Department of Health

The Department of Health will require inspectors for food and lab plan review, complaint responses, routine inspections, pre-opening inspections and follow-up inspections.

These costs are outlined in the table below.

---

<sup>3</sup> Testimony of Yesim Sayin Taylor, Office of Revenue Analysis, before the Committee on Business, Consumer, and Regulatory Affairs and the Committee on Finance and Revenue, available at [http://cfo.dc.gov/sites/default/files/dc/sites/ocfo/release\\_content/attachments/Yesim%20Testimony%20on%2020-466%20MJ%20Legalization%20and%20Regulation%20Act.pdf](http://cfo.dc.gov/sites/default/files/dc/sites/ocfo/release_content/attachments/Yesim%20Testimony%20on%2020-466%20MJ%20Legalization%20and%20Regulation%20Act.pdf)

The Honorable Phil Mendelson

FIS: Bill 20-466, "Marijuana Legalization and Regulation Act of 2014," Draft Committee Print shared with the Office of Revenue Analysis November 24, 2014.

<b>Fiscal Impact of Bill 20-466 "Marijuana Legalization and Regulation Act of 2014"</b> <b>FY 2015-FY2018 (in thousands of dollars)</b>					
	<b>FY 2015</b>	<b>FY 2016</b>	<b>FY 2017</b>	<b>FY 2018</b>	<b>Total</b>
ABRA Personnel costs <sup>a</sup>	\$0	\$1,093	\$1,126	\$1,159	<b>\$3,378</b>
ABRA Non-personnel costs <sup>b</sup>	\$0	\$1,130	\$290	\$270	<b>\$1,690</b>
OCFO Personnel costs <sup>c</sup>	\$0	\$0	\$176	\$181	<b>\$356</b>
OCFO Non-personnel costs	\$0	\$0	\$25	\$25	<b>\$50</b>
DOH Personnel costs <sup>e</sup>	\$0	\$250	\$258	\$265	\$775
<b>TOTAL COSTS</b>	<b>\$0</b>	<b>\$2,773</b>	<b>\$1,874</b>	<b>\$1,900</b>	<b>\$6,249</b>

Table Notes:

<sup>a</sup> ABRA will hire 12 FTEs consisting of 1 program Manager (Grade 15), 3 Investigators (Grade 11), 2 Licensing Specialists (Grade 11), 2 Managers (Grade 14), 1 Contact Representative (Grade 7), 1 Public Affairs Specialist (Grade 12), 1 Information Technology positions (Grade 13), and 1 Attorney Advisor (Grade 14). The estimate includes salaries and fringe benefits.

<sup>b</sup> ABRA will procure a "seed to sale" tracking system estimated at \$500,000, maintenance funding for the system estimated at \$125,000 annually, a new identification printing machine, and additional computers and equipment for new staff.

<sup>c</sup> OCFO's Office of Treasury will hire two cashiers for walk-in collections (Grade 12). The estimate includes salaries and fringe benefits.

<sup>d</sup> OCFO will have to incur additional banking services costs due to higher volume collection of checks, cash and credit cards.

<sup>e</sup> DOH will require four inspectors (two Grade 9, one Grade 10, and one Grade 11).